

Our Reference: GDK-100-B

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Derek Gauger
Serial Number: 10/039,999
Filing Date: October 24, 2001
Examiner/Art Group Unit: Naresh Vig/3629
Title: NETWORK BASED, INTERACTIVE PROJECT
MANAGEMENT APPARATUS AND METHOD

ELECTION WITH TRAVERSE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In the Office Action dated December 28, 2007, the Examiner has required restriction between the pending claims. The Examiner bases the restriction on four independent claims, 1, 34, 52, and 54. He states that the four inventions are subcombinations disclosed as usable together in a single combination.

The Examiner describes the features of each independent claim and concludes that each invention has separate utility from the other inventions.

The Examiner states that:

The inventions are distinct, each from the other because of the following reasons:

1. "Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the Examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, the restriction for examination purposes as indicated is proper."

By way of background, in an Office Action dated May 4, 2007, the Examiner rejected claims 1 – 9, 41, and 53 and indicated that claims 34, 52, and 54 (Inventions II, III, and IV in this Restriction Requirement), while objected to, would be allowable if amended to independent form including all of the limitations of the base claim and any

intervening claim. Applicant amended claims 34, 52, and 54 to independent form in the Amendment filed on October 17, 2007.

In the Restriction Requirement, however, the Examiner has not indicated how the inventions have acquired a separate status in the art in view of their different classification. The requirement is devoid of any indication of a different classification for each claimed invention. The Examiner has already conducted a search and considered each of the independent claims 1, 34, 52, and 54 which he refers to as inventions I, II, III, and IV. Applicant fails to see how maintaining claims 1, 34, 52, and 54 in the application at this time would place any further burden on the Examiner, let alone a serious burden.

The Examiner also states as a basis for the invention being distinct:

2. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the Examiner if restriction is not required because the inventions require different fields of search, restriction for examination purposes as indicated as proper.

It is pointed out that the Examiner has already performed a search on each of these claims and has previously indicated that claims 34, 52, and 54 would be allowed if amended to independent form, which action was done by the Applicant.

The Applicant fails to understand how there can be a serious burden on the Examiner if restriction is not required as the Examiner has not indicated which different fields of search the subject matter of claims 1, 34, 52, and 54 may require. The Examiner has already completed the search and there is no reason given as to why a further search is needed for claims 34, 52, and 54, separate from the invention covered by claim 1.

The Examiner further states:

3. Because these inventions are independent or distinct for the reasons given above, there would be a serious burden on the Examiner if restriction is not required

because the inventions have acquired separate status and they are due to the recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant does not understand how there can be a serious burden on the Examiner if restriction is not required since the Examiner has not indicated how the inventions have acquired a separate status in the art due to any recognized divergent subject matter.

Any difference between the inventions set forth in claims 1, 34, 52, and 54 is due to specific features of each claim; while most of the subject matter of each claim contains the same features. Thus, there clearly is no recognized divergent subject matter which can be used as a basis for this restriction.

The Applicant submits that the proposed Restriction Requirement would not create any burden on the Examiner since the Examiner has already indicated that inventions in claims 34, 52, and 54 contain allowable subject matter.

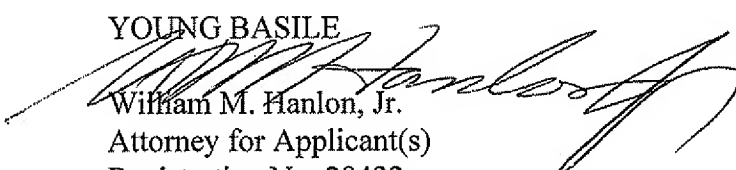
For these reasons, Applicant submits that the Examiner has not established any proper basis for this Restriction Requirement and its withdrawal is respectfully requested.

In order to meet this Restriction Requirement, Applicant provisionally elects with traverse Invention I as set forth in claims 1 – 6, 9, 41, 53, and 55.

Withdrawal of the Restriction Requirement and an action on the merits of Applicant's invention as set forth in claims 1 – 6, 9, 34, 41, 52 - 55 pursuant to Applicant's Communication filed October 17, 2007 is respectfully requested.

Respectfully submitted,

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Dated: January 30, 2008
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